



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Olivia Igel, Ohio Department of Health
Cole Weidman, Ohio Department of Health

FROM: Michael Bender, Business Advocate

DATE: January 13, 2025

RE: CSI Review – Health Care Services (HCS)/Hospital Licensure (OAC 3701-22-30 through 3701-22-65, 3701-84-01 through 3701-84-14, 3701-84-16, 3701-84-20, 3701-84-21, 3701-84-24 through 3701-84-27, 3701-84-30 through 3701-84-34.2, 3701-84-36 through 3701-84-40, 3701-84-61 through 3701-84-65, 3701-84-67, and 3701-84-75 through 3701-84-85)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of forty-one new rules and fifty-four rescinded rules proposed by the Ohio Department of Health (ODH). This rule package was submitted to the CSI Office on November 27, 2024, and the public comment period was held open through December 27, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 27, 2024.

Ohio Administrative Code (OAC) Chapter 3701-84 establishes quality standards for providers of health care services (HCS) in Ohio. Such standards concern facilities, equipment, personnel, and patient selection criteria. The requirements found therein are applicable to a variety of HCS, namely solid organ transplantation, bone marrow transplantation, adult cardiac catheterization, adult open-heart surgery, pediatric intensive care, pediatric cardiac catheterization, pediatric cardiovascular

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

surgery, and operation of a linear accelerator/gamma knife/cobalt radiation therapy unit. The rules in OAC Chapter 3701-84 are rescinded, with their contents relocated into the proposed new rules in OAC Chapter 3701-22. As part of the integration into OAC Chapter 3701-22, the rules are revised to update language and citations, make technical corrections, align with current hospital licensure procedure, reflect the fact that the HCS program grants waivers rather than variances, extend the deadline for open-heart surgery services and level I, level II, and level III cardiac catheterization services to submit certain information to ODH from March 1st to June 1st each year, and allow the Director of ODH (Director) to suspend the operations of any HCS under certain conditions.

During early stakeholder outreach, ODH contacted stakeholders in 2022 and 2023 regarding the rules in OAC Chapter 3701-84, which were then due for a five-year review. The stakeholders who were contacted included University Hospitals, Mercy Health System, the University of Cincinnati, the Ohio State University Medical Center, Wright State University, Case Western Reserve University, Cincinnati Children's Hospital, Nationwide Children's Hospital, Dayton Children's Hospital, Akron Children's Hospital, Rainbow Babies and Children's Hospital, the Cleveland Clinic, Fairfield Medical Center, Lima Memorial Hospital, the Christ Hospital, Kettering Health, MetroHealth, OhioHealth, Mount Carmel Health Systems, Adena Health Systems, Genesis Health System, Summa Health System, Southern Ohio Medical Center, Firelands Regional Medical Center, ProMedica, the Ohio Hospital Association, the Ohio Children's Hospital Association, the Ohio Solid Organ Transplant Consortium, the Ohio Hemopoietic Therapy and Transplant Consortium, and the State Medical Board of Ohio. ODH made revisions to the rules based on the feedback it received from stakeholder comments. As a result of House Bill 110 of the 134th General Assembly, ODH was required to incorporate the rules into OAC Chapter 3701-22, a move which stakeholders supported. No comments were received during the CSI public comment period, although ODH revised the rules to make grammatical and technical corrections.

The business community impacted by the rules includes providers of HCS, specifically solid organ transplantation, bone marrow transplantation (including stem cell harvesting and reinfusion), adult cardiac catheterization, open-heart surgery, pediatric intensive care, radiation therapy and stereotactic radiosurgery, pediatric cardiac catheterization, and pediatric cardiovascular surgery. The adverse impacts created by the rules include fines, reporting requirements, and the time needed for compliance with the established requirements. There is a nonrefundable license application and renewal fee based on the number of beds within the hospital as well as a nonrefundable service fee of \$3,000 for each HCS. According to ODH, time and manpower will be necessary to develop policies and procedures, develop written plans for a quality assessment and performance improvement program, conduct meetings, develop a tuberculosis control plan and infection control policies, provide training, and adopt and follow disaster preparedness and fire evacuation plans. Administrative costs also borne by the HCS are associated with the provision of services within the industry, such as patient care planning, written policies, employee training and development, and

obtaining informed consent from patients. ODH, citing the federal Bureau of Labor Statistics, notes that average hourly wages as of May 2023 are \$130.31 for physicians, \$40.59 for registered nurses, and \$45.36 for other health care practitioners. A cease operation order may be obtained after a second or subsequent violation or if the Director determines that a first violation poses an imminent threat of serious physical or life-threatening danger. ODH states that the adverse impacts to business are justified to implement statutory requirements, reduce negative HCS outcomes, and ensure the health and safety of Ohio's health care consumers.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODH should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.